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WASHINGTON STATE

FAMILY LAW GUARDIAN AD LITEM

GUIDEBOOK

CH. 7

It was created by the Washington State Administrative Office of the Courts in 2008, and is available on line.

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[www.kcba.org/CLE/Title26GALDraft.pdf]

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For the most part, we have copied parts that are not dependent on any particular state law. However, a few sections do have cites to the Washington statutes or rules. Rather than hack those sections up, we left them intact.

You all would obviously have to rely on the Connecticut laws, procedures, rules and practices!

CHAPTER 7
CHILD DEVELOPMENT

CHILD DEVELOPMENT

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INTRODUCTION

The best interest of a child is, in large part, determined by understanding the developmental needs of the child reflected by their stage of development. Within this context, the quality of the parents' strengths and weaknesses, as well as, their capacity to meet the needs of their child at each stage of development is to be examined.

Using a child developmental framework, this chapter will present the issues that surface due to family disruptions that occur during marital dissolution, paternity, and third party custody cases. Significant issues related to family disruption and the impact on the child are addressed in this chapter. This information may also be applicable to other aspects of family law.

OUTLINE

- Bonding and Attachment
- Developmental Tasks
- Grief and Loss
- Parental Conflict
- Special Needs Children
- Effect of an Absent Parent
- Introduction of New Relationships
- Blended Families
- Child and Family Therapy
- Communication with Children
- Residential Schedule: Developmental Framework

BONDING AND ATTACHMENT

Bonding is a hormonal process that begins at birth. It is the physiological and emotional readiness to become attached. Bonding between father, mother, and infant is developed through touch and social responsiveness.

Secure attachment occurs as the infant's physical, social and emotional needs are consistently met by the parent. The parent is sensitive and responsive to the infant through verbal and non-verbal communication which is provided in a consistent manner.

Insecure attachment occurs when a parent is insensitive or unresponsive to a child's needs. The parent may also be deficient in providing warmth and nurturing to the child. Environmental conditions, such as family instability, high conflict, poor communication, or family violence may distract the parent from attending to the child in a sensitive and responsive way.

COMPETENCY IN DEVELOPMENTAL TASKS

Major developmental theorists, such as ERIK ERIKSON, provide a description of the main tasks that a child must accomplish in order to move forward in their development. Erikson also provides a perspective on culture as it relates to the child's developmental tasks. "Each individual's life cycle unfolds in the context of a specific culture. While physical maturation writes the general time table according to which a particular component of personality matures, culture provides the interpretive tools and the shape of social situation in which the crisis and resolutions must be worked out."

INFANT TO 24 MONTHS: DEVELOPMENT OF SECURE ATTACHMENTS.

In this phase, an infant distinguishes between significant adults who care for them. They learn dependency and stability through their relationships. This is their foundation of learning to trust.

Key factors of this developmental stage are:

Developing trust occurs within a consistent, stable environment.
Developing secure attachments continues through reciprocal and trusting interactions.

For example, as the child cries, coos, or fusses, the parent is attentive and responds to baby's needs by providing affection and physical care.

Emotional attachments are based on continued frequent and appropriate social interactions. Attachment to each parent is formed by the first 6-7 months. Based on the development of primary attachment to parent(s), the infant is capable of forming multiple attachments. Infants with secure attachments have the foundation that enables them to explore their environment, engage in social interactions, and to soothe themselves.

TODDLER 2 YEARS-5 YEARS: DEVELOPMENT OF AUTONOMY

In this phase, the toddler learns to exercise their independence and begins to learn self control. This increases their confidence to function independently.

Key factors of this developmental stage are:

Increased physical mobility and social interaction
Increased independence and self-awareness
Interest in exploring their world
Continued development of attachment
Development of language and motor skills

For example, the child develops competency in crawling, toddling, walking, toilet training, and responding to limits.

Continued availability, sensitivity and responsiveness of the parent(s) is essential to develop these child competencies. The role of each parent is essential to the degree that each parent has been a part of the routine caregiving. The increased challenge of developing these competencies may create stress for the toddler who then seeks comfort and proximity to the parent(s). The security within the parent relationship creates a safe haven, thus begins their ability to self-regulate, develop empathy and self-esteem. These children develop resilience.

When a child has an insecure attachment, they have no safe haven. A parent who is ambivalent, inept, inconsistently responsive, or rejecting of the child creates mistrust in that relationship. If the attachment continues to be impaired, the child responds with confusion and fear. This may affect their ability to form social relationships and to regulate their attention, behavior and emotions.

For example, a parent distracted by chemical dependency, patterns of violence, or untreated mental illness may be unable to attend to or meet the needs of the child.

IMPORTANT CONSIDERATIONS:

- A toddler needs safety, protection, adequate nutrition and a schedule for eating and sleeping.
- A toddler's secure attachment may be affected by parental conflict, lack of continuity of care, inconsistent schedules, interruption of parental contact, frequent change of caregivers or extended travel time between homes.
- Be aware of cultural factors regarding family traditions and expectations.

2 TO 3 YEARS OF AGE: DEVELOPMENT OF AUTONOMY

In this stage there is a continuation of the development of autonomy with special attention to the toddler learning to separate and master separation anxiety.

Normal separation anxiety characteristic of this age includes: temper tantrums, clinging, crying, hiding and refusal to separate. Normal separation anxiety should not be misconstrued as an indicator of a deficient attachment or that something is wrong with the other parent.

Key factors of this developmental stage are:

- Increased sense of autonomy and independence.
- Increased self-assertion. For example, it's the 'I'll do it' stage, i.e., dressing, toilet training, feeding, with frustrations expressed through temper tantrums.
- Increased acquisition of language.
- Increased tolerance for separation from the attachment figures.

IMPORTANT CONSIDERATIONS:

Evaluate each parent's ability to tolerate and manage this stage of development.

3 TO 5 YEARS OF AGE: DEVELOPMENT OF INITIATIVE

During this phase, the child initiates and becomes purposeful in their activities. There is increased tolerance for separation from attachment figures. The child learns to develop peer relationships, and gender and racial identity are becoming established.

Key factors of this developmental stage are:

- Increased need for socialization with peers.
- Beginning of internalization of self-control.
- Increased language skills facilitates independence, social interactions, and expression of the child's feelings and needs.
- Cognition is literal and concrete.

IMPORTANT CONSIDERATIONS:

- Either a "lassaiz faire" (permissive) style or authoritarian style (overly restrictive) of parenting may impair the child's mastery of these tasks or may affect the self-regulation of their attention, behavior and emotions.

6 TO 11 YEARS OF AGE: DEVELOPMENT OF ACADEMIC SKILLS AND SOCIAL RELATIONSHIPS

During this phase, the child develops competencies in academic skills, peer and social relationships. They have achieved a greater tolerance for separation; can distinguish between reality and fantasy; and develop sexual identity.

Key factors of this developmental stage are:

- Increased independence in their social and physical world which allows separation from the parent for longer periods of time.
- Development of relationships outside of family, e.g., peers, teachers, coaches.
- Mastery of skills learned through social interactions with friends and through extracurricular activities.
- Development of morals and values.
- Learning discipline and co-operation.
- Cognition characterized by black/white thinking, fairness.

IMPORTANT CONSIDERATIONS:

- Self-esteem is a sense of who they are as a competent individual. This is learned and reinforced primarily through parent and peer interaction.
- Extracurricular activities are essential for the child's self-esteem.
- Gender and cultural identification continues to develop.

12 to 18 YEARS: DEVELOPMENT OF SEPARATION AND INDIVIDUATION

During this phase, the adolescent searches for their own autonomy by developing a strong sense of personal identity. During this transition to adulthood, they gradually separate from their parent(s) and family to align themselves with their peers.

Key factors of this developmental stage are:

- Developmental tasks of 6 to 11 years continue to be significant.
- Gender identification.
- Acceptance of physical changes.
- Focus on their sexuality.
- Accepting responsibility and consequences for their own decisions and behavior.
- Preparing to be involved in adult relationships.
- Increased internalization of self-control.

IMPORTANT CONSIDERATIONS:

Younger Adolescents 12-14 Years. There are certain social and behavioral characteristics that are prominent in this stage.

- Self-identity question: Who Am I?
- Frequent changes in social groups.
- Testing authority and limits.
- Contrary, emotionally reactive and moody.
- Wide range of physical development.
- Impulsive behavior and short-term gratification are pervasive.

Older Adolescents 15-18 Years. There are certain characteristics that are prominent in this stage.

- Self-identity question: What Will I Become?
- Acceptance of responsibility in various aspects of their life, including academics, work, volunteer service, and social relationships.
- Increased capacity for decision-making and accepting responsibility for these decisions.
- Increased independence may lead to increased risk to their health and safety.
- Parental involvement shifts from direct control to guidance of the adolescent.

SYMPTOMS OF GRIEF AND LOSS

The symptoms of grief and loss are often present in children when they experience a significant loss of relationship, whether through death, divorce, estrangement, relocation or abandonment. Multiple changes in the child's life also evoke similar reactions. Children experience loss through a change of home, neighborhood, school, daycare, friends, and their community. Although critical decisions need to be made at the time of divorce regarding property, financial assets and lifestyle, it is important to consider the child's adjustment to change and loss. The introduction of a "significant partner" of the parent at this time may also complicate and intensify their grief.

It is normal for children to evidence symptoms of grief and loss during family disruption. Each child's temperament and stage of development will have an impact on how they respond and adapt to loss. Too many changes in a short period of time may overwhelm the child's ability to adapt and cope. The greater the intensity and the longer the duration of grief symptoms may suggest that the child is experiencing undue distress. It is necessary to examine the parents' ability to be flexible and adaptive in their acceptance of their child's symptoms of distress.

SYMPTOMS OF GRIEF IN CHILDREN

Normal symptoms of grief are demonstrated in each phase of development.

Birth to 3 Years of Age:

- Changes in eating or sleeping habits.
- Increased crying, whining, clinginess.
- Increased fears, anxiety, anger.
- Inability to be soothed.

3 to 5 Years of Age:

- Behavioral problems.
- Social withdrawal – non-responsive.
- Physical or verbal aggression.
- Somatic complaints: headache, stomachache, constipation.
- Regression: baby talk, bedwetting.
- Overly compliant: "too good".
- Acting out: destructive behavior, temper tantrums.

6 Years to 12 Years of Age:

- Anxiety.
- Depression.
- Somatic complaints.
- Physical or verbal aggression.

- Change in social or behavior patterns.

13 Years to 18 Years of Age:

- Includes symptoms of distress as previously identified.
- Intensified behavior problems which may place the youth at risk: drug and alcohol, sexual acting out, anti-social activities.

IMPACT OF PARENTAL CONFLICT ON CHILDREN

When the families' equilibrium is disturbed by divorce, remarriage or relocation, it can take as long as two years for the family to stabilize. Often during this period of time, the parents are distracted and the social-emotional needs of the child may be compromised. The history of parental conflict may have preceded the separation/divorce and have negatively impacted the child. The degree of parental hostility and the intensity of anger displayed during the family disruption may be an indicator of the harmful environment within which the child has lived prior to the parental separation. Failure to protect the child from this aggression may suggest to the child that the parent is unavailable to them or out of control.

Parents in distress may not be sensitive to the child's inclination to absorb information containing negative attitudes, derogatory remarks or blaming statements about the other parent. Children have a literal understanding of parents' statements and expressions about the other parent: "we have no money for food", "she/he won't ever be back", "we'll be out on the street", "she's a witch", "he's a jerk." Consider the parents' ability to change this behavior. If a child has a conflict with divided loyalty, is the parent contributing to this issue or helping resolve this issue with the child? This is fertile ground for the child's rejection of one parent.

There are several ways children are exposed to negative information. They may listen to conversations between parents and/or between their parent and a friend or relative. In addition to eavesdropping, children might investigate legal documents that are available to them or that can be accessed on the computer. Although some adolescents may feel "entitled" to this information, it is the parents' responsibility to maintain good boundaries and protect their child/adolescent from this source of negativity.

Destructive parental conflict might be demonstrated in the following manner:

- Family violence.
- Parental threats, excessive control, and intimidation.
- Issues of divided loyalty.
- Aligning with one parent and rejecting the other parent.
- Use of child as message bearer.
- Use of child as parental confidant.
- Volatile behavior during the exchange of the child.
- Spreading gossip and rumors about the parent.
- Parent(s) acting out behavior at the child's extracurricular activities.

- Attempts to create an "alliance" with the caregivers, relatives, coaches and school community. This is detrimental to the other parent's participation in the child's life and seriously affects the child.
- Lack of parental communication about their child.
- Lack of sharing pertinent information or lack of shared decision-making regarding medical-dental care, school or extracurricular activities.

The impact of these types of destructive parental conflict will intensify the grief experienced by the child and manifest itself in cognitive, social, emotional and behavioral problems. Characteristic developmental responses of the child to parental conflict may include the following:

Toddler:

- Does not understand the content of conflict.
- Responds to the expressed feelings and the mood of the parent.
- The primary emotional response is fright.

Preschooler:

- Beginning to understand the content of parents' argument.
- May believe that what they hear is true ("Daddy/Mommy is bad").
- Typical response is worry.
- May feel responsible for divorce or conflict due to egocentric thinking.

Younger Elementary:

- Often feel in the middle of parents' conflict (parents may expect child to take sides).
- May be questioned about the other parent and not have the ability to refuse to respond.
- Often will tell each parent what the child thinks he/she wants to hear thereby provoking additional conflict.

Older Elementary:

- Increased interest in determining parental fault.
- May have detailed knowledge of disputed adult issues such as finances, extramarital affairs, etc.
- May actively seek information about disputed adult issues and reach erroneous conclusions.
- May judge parental behavior negatively and refuse to visit the parent, talk to them on the phone, or invite them to their events.

Adolescent:

- Less predictable response to conflict.
- May lead to high risk acting out behavior.
- May show renewed interest in non-primary parent after years of estrangement.
- May be unable to separate from family or may separate from family prematurely.
- May exploit parental conflict for their own purpose.

SPECIAL NEEDS CHILDREN

A comprehensive assessment of a family with a special needs child would include an understanding of the impact of the needs of the child on the parent, as well as the siblings. An evaluation of the financial, physical, social, and emotional impact both short and long term needs to be considered. Often these children require continued medical, dental, educational or therapeutic interventions to maintain their health. Financial or child-care assistance is frequently needed to offset the myriad of demands made upon the parent. This might include, for example, taking time off work for medical/dental or therapy appointments; respite care for the child or babysitters for the sibling(s).

Each parent's knowledge, acceptance and understanding of the medical and/or psychological diagnosis needs to be evaluated. The parent's motivation and ability to implement the designated medical treatment plan or educational plan for the child needs to be addressed. Parental disagreement about the diagnosis or recommended treatment plan may suggest a parent's denial, rejection or misunderstanding of the inherent physical, mental or neurological problems of their child. An assessment of the parents' ability to independently increase their knowledge of the disability is important. Often after a parent has consulted with the pediatric neurologist, family physician, mental health therapist or educational specialist, they are more amenable to implementing a treatment plan.

When there are siblings, consideration might be given to a more flexible residential schedule to accommodate their needs. Such flexibility would allow each parent to spend individual time with either the siblings or the special needs child.

An important aspect of the evaluation is the history of the parents' attitude and behavior toward this child and their capacity to parent a unique and often complex child. Although parenting styles vary, the capacity of a parent to discipline a special needs child effectively is important. Does the parent have the flexibility and adaptability to modify their discipline based on the needs and temperament of this child?

Usually a special needs child is very responsive to a consistent, structured home life. The patterned predictability and physical stability of the home is internalized as social and emotional security.

TYPES OF SPECIAL NEEDS CHILDREN:

Psychological/Biological:

- Mood disorders: depression, anxiety, bipolar, schizophrenia

Neurological:

- Attention Deficit Disorder (ADD) with hyperactivity (ADHD)
- Learning disability: visual, auditory, spatial cognitive processing

Medical:

- Juvenile diabetes
- Allergies – necessitates medication or special diet
- Chronic physical illness, e.g.: asthma, cystic fibrosis, muscular dystrophy
- Physical disability

Developmental:

- Developmental delay
- Pervasive developmental disorder: Aspberger Syndrome, Autism, Tourette's

The demands of a special needs child may be life-long, complex and demanding in every aspect of family life. It is important that the parenting plan provide for proportional responsibility for the long-term needs of the special needs child. Referring a parent to appropriate resources specific to the special needs of the child might help the parent to interact effectively with this child. Resources might include professional consultation, parent education, or family counseling.

IMPACT ON THE CHILD OF AN ABSENT PARENT

There are several ways a parent can be absent from their child's life.

- A parent who is physically absent and non-responsive to the needs of the child.
- A parent who has a pattern of sporadic contact with the child.
- A parent who is "physically present" yet by the nature of their own addiction or untreated mental illness, imprisonment and/or severe personality disturbances is inconsistently responsive to the child.

Another type of parental absence could result from prolonged separation to which the child and family has adapted. Such separations may be due to military deployment or extended work assignments. It is important to consider the unique aspects of these family situations, as well as, the child's developmental needs. A child's ability to adapt to these scheduled absences is more likely to be positive than negative.

In some situations, prolonged separation may result from CPS investigations of allegations of child abuse or neglect. Whether these allegations result in legal action or not the child has been affected by the disruption in the family relationships caused by parental absence.

There is also the situation of parental absence resulting from a child's rejection of the parent which may be characterized by the child's denigration of their parent out of proportion to the parent's behavior. This results in the systematic rejection of that parent. These children are considered to be alienated from their parent. A child would not be considered alienated if they reject a parent who has been neglectful or abusive to them or has engaged in family violence.

The impact of an absent parent may create feelings of abandonment and rejection in the child. This is often internalized by the child as feelings of blame, guilt, anger, hurt or confusion. This absence may wound the identity of a child and create a pervasive loss of self-acceptance. The child questions "What is wrong with me? Does he/she remember me?" Personal embarrassment may occur in social situations at school or in the community when questions are asked that can't be answered. For example, a friend asks "where does your parent live? When do you see them? How come . . .? What's the matter with them?" Other examples of acutely painful reminders of parental absence occur with birthdays, holidays or special achievements awarded to the child. The adult's pervasive lack of interest in the child or knowledge of their life is internalized by the child as self-doubt about their value. Some children may idealize or fantasize about the absent parent, as well as, worry about them.

Some factors to consider when evaluating the impact of an absent parent on a child include:

- History of parenting prior to separation.
- Age and developmental level of child.
- Reason and type of absence.
- Responsible parent's adaptation and attitude toward absent parent.
- Economic and social support to the family.
- Absence is re-experienced periodically at different developmental stages.

The degree and intensity of impact of parental absence on the child may be mitigated by the following factors:

- Healthy acceptance by the responsible parent.
- Healthy sibling relationship.
- Supportive gender role models.
- Appropriate participation of extended family members of either parent.
- Nurturing supportive step-parents.
- Child's self-acceptance fostered by their own achievements.
- Availability of adequate social and economic resources.

Even with the consideration of mitigating factors, there may be residual vulnerability within the child which may be manifested by expressions of anger, rage, hurt, and sadness.

When there has been a prolonged absence between the parent and child and the parent requests residential time with the child, it may be necessary to make recommendations to the court regarding re-unification. Consideration may be given to the following factors:

- Reason, frequency and duration of parental absence.
- Intent and motivation of returning parent.
- Current age and developmental stage of the child.
- Age and developmental stage at the time of absence.
- Security of child in their present family and the disruptive impact of reintroduction of the parent.
- Residential parent's capacity to support the re-unification of the parent and child.

Often it is necessary to recommend either supervised visitation, therapeutic visitation, or re-unification therapy. There may be situations where a combination of services are needed.

Supervised visitation offers a safe, secure child-focused re-introduction to an absent parent. It is offered in a home, office or in the community and the visitation supervisor provides written observation of the parent/child interaction. Professional supervision may be recommended if the absent parent is a stranger to the child. In some circumstances, a family or friend might be an appropriate supervisor. It is recommended that an agreement be signed delineating expectations of the supervision process including cost and duration.

Therapeutic visitation is a form of supervised visitation provided by a master's degree or doctoral level therapist. The therapeutic supervisor provides general parenting guidance, models appropriate parenting behavior, and intervenes to correct inappropriate behavior. They may facilitate difficult conversations related to the parental absence. They may also help the child or adolescent express their thoughts, opinions and preferences to their parent.

Reunification counseling offers a therapeutic environment. The mental health counselor facilitates the expression of thoughts, feelings and behavior between the parent and child. The reunification therapist offers to teach the parents, to assess the child's reaction to the parents, and to critically evaluate the potential of the parent/child relationship. Professionals providing these services need to be experienced in the dynamics of complex family matters. Reunification therapists who provide these services have a master's degree or doctoral level degree.

Some factors to be considered when recommending supervised visitation, therapeutic visitation or reintegration therapy include: identify the purpose, the intended outcome, and the length of time of the service. The cost, frequency of service and logistics of transportation also need to be addressed. Selection criteria of an appropriate professional should include their experience in high conflict or complex family situations.

IMPACT OF NEW RELATIONSHIPS

Children are adjusting to the parental separation, divorce and residential schedule, all of which require physical, social and psychological adjustments. Each child's post separation/divorce reaction is influenced by their age, temperament and resilience.

Although parents may feel ready to begin a new relationship, it is important to keep their adult relationships separate from the child. The premature introduction of a new person further complicates the child's adaptation to each reorganized family. There are serious issues that frequently arise when a parent fails to give the child the time they deserve and the result may be that the child's need for their parent's attention is compromised. This might be another situation during which the child experiences divided loyalties between their parents. There may be secrecy and lies surrounding the new relationship which creates unnecessary confusion, hurt and anger. The child 'can't win'—what do they tell or share or deny to the other parent?

Introduction of a parent's new relationship is appropriate when there has been sufficient time to create consistency and stability in their separate family homes. Parents may ask for guidance on how or when to introduce a new relationship to the child. Discussion of the following ideas may be beneficial to this process:

- Inform the child about the person
- Participation in shared activities: a meal, a movie, or ice cream
- Maintain individual parent/child time
- Inform the other parent of the presence and involvement of this person
- Inform the child that the parents have shared this information
- Expressions of neutrality and tacit acceptance offered by the other parent are helpful to the child
- Willingness of parent to listen and respect the child's opinion about the relationship yet the parent needs to be responsible for their own decisions

BLENDED FAMILIES

When the parent remarries, it may take several years to "blend" together as a stepfamily. A stepparent may also have children from a previous relationship and the couple might have their own children. Each family has a particular culture with traditions, communication styles, and history. Some factors to consider when assessing how effectively the stepfamily has been established include the following:

- Awareness of parenting styles
- Family rules and rituals
- Discipline issues – who disciplines whom? How?
- Expectations of the parents

Adults need to be respectful of the child's acceptance of the stepparent. Issues such as divided loyalty, child's protection of the "single" parent, alliance with a disapproving parent may jeopardize this process. If the child feels pressured prematurely to call the adult "Mom" or "Dad" their compliance might mask their confusion. Higher compatibility between the family values regarding academic expectation, socialization, communication, discipline and chores will promote each family's stability. If there is disparity between the parents' values and lifestyles, friction and chaos may result. There are special features of the stepfamily which should be

considered when evaluating the impact of these blended family relationships on the child. The quality of the relationships between the children who are step-siblings or half-siblings depends upon many factors which may impact the child:

- Age and stage of development of child
- Personality and temperament of child
- Birth order of child
- Compatibility of interests in their lifestyle
- Quality of relationship with each parent
- History of relationship between the children

Some children share a stable, consistent sibling relationship with their step- or half-siblings and do not distinguish between these labels. Other children express discontent when they have nothing in common with another child and are "forced" to share their possessions, room or time with their parent. Due to differences in residential schedules, some children do not develop a significant relationship with step- or half-siblings or the age span is too great, e.g., 10 years or more. Often there are latent jealousies and competitions between the adults that impact the children. Whether covert or overt these hostilities create complicated social and emotional problems for the child.

CHILD AND FAMILY THERAPY

During the process of a family law matter it might become necessary to refer the child to mental health counseling or to evaluate the child therapy already being provided. Therefore, it is important to understand a clinician's approach to working with children or adolescents.

A clinical assessment which is the beginning of therapy must (if possible) include an interview with both parents, either separately or together. A child is seen together with the parents and/or siblings, as well as, individually to enable a clinical treatment plan to be developed. This plan is then discussed with the parents. An assessment typically includes:

- Medical history
- Developmental history
- Educational history
- Social History
- Family History

Since a young child needs cognitive functioning and expressive language to be involved in therapy, child therapy does not usually begin earlier than 3 years of age. Play therapy is employed for young children to engage in imaginative play in a non-directive manner. For children under age 3 years, the focus of therapy is to improve the parenting skills of the adult. Child and family therapy with any age child may also include parent education and training.

Confidentiality in therapy is the clinician's ethical obligation to maintain the client's privacy. The privilege of therapy is the right to permit disclosure of therapeutic information. That privilege belongs to the parents of children younger than age 12. Additionally, the consent of

children 12 years and older is required to access clinical records. The person holding the privilege must sign a release that permits disclosure of information. There are limits to confidentiality which include legally mandated reports of harm to self or others, or child abuse or neglect.

Consultation with a therapist might elicit the following information:

- Date of assessment
- Dates of therapy sessions
- Referral question
- Presenting problem/focus of concern
- Diagnosis and treatment plan
- Participation of parents
- Concerns of the therapist
- Treatment recommendations and progress of child

An attorney needs to listen critically in order to analyze and determine the objectivity and professionalism of the therapist. Some indication of the therapist's loss of professional objectivity may include:

- Alignment with one parent.
- Advocacy for the child/adolescent.
- Making recommendations without valid foundations.

The therapist should not be asked for recommendations regarding the parenting plan because such recommendations are outside the scope of child therapy. The information and recommendations by the therapist regarding the child could include:

- Child's attachment to each parent.
- Temperament.
- Adaptability/resilience.
- Coping mechanisms.
- Emotional equilibrium.
- Vulnerability.
- Need for therapy.

INTERVIEWING CHILDREN IN DEVELOPMENTALLY APPROPRIATE WAYS

During the process of a family law matter, it may become necessary to appoint a guardian ad litem, parenting evaluator, or in collaborative law, a parent/child specialist. These professionals should be guided in their child and family interviews by their understanding of child development. They will interview and observe the child and their family. The interviews and observations include each parent/child relationship, sibling relationships, as well as, individual

interviews with each adult and child in the family. In preparation for child interviews, it would be helpful to understand how the age and the child's developmental stage influences their social, emotional, and cognitive presentation. For example, the age of a child determines their understanding of time, dates, places, duration and frequency. The language, attitude, and behavior of a child may also reflect serious issues such as adult coaching, role reversal (child caretaking the parent), alienation, and pseudo adult behaviors.

An effective interview with the child will include the following:

- Reassure the child/adolescent that they are not making the decisions although their ideas and thoughts will be considered.
- Be aware that adolescents might have conflicting agendas.
- Establish rapport with them.
- Explain the purpose of the interview.
- Clarify there is no confidentiality.
- Offer privacy to child (interview child separately from siblings and parents).
- Adapt vocabulary, sentence structure, and content to the developmental level of the child.
- Begin the interview with general, open-ended questions and move toward specific questions if necessary.
- Offer appreciation to the child for participation.

RESEARCH TOPICS RELATED TO DEVELOPMENTAL ISSUES

There are two critical components to be considered when structuring a residential schedule: the developmental needs of the child and the capability of the parent to meet those needs. Developmental research is a primary source of information concerning the needs of children. This research provides information about:

(1) What constitutes parental competency. The research provides information relating to several areas of parental psychological health.
(2) The functioning of parents with limitations such as mood disorder, substance abuse, or personality disorders.
(3) Healthy family functioning and effective parenting.
(4) Factors that optimize a child's health or put a child at risk.

This general research information must be balanced with each family's unique characteristics.

For example, research strongly supports the benefits of siblings living together, but in certain family situations factors such as significant age spread between siblings may suggest separation of siblings.

The developmental literature, as well as the divorce literature, has presented two concepts worth review. One is that of *psychological parent.* The other is the distinction between *primary* and *secondary attachment figures.*

The definition of psychological parent includes ideas about which parent fulfills the child's psychological need for stability, comfort, affection and security on a day-to-day basis and meets

the child's physical needs. Previously the concept of psychological parent was presented by the clinical work of Goldstein, Freud, and Solnit in 1973. They assumed that a child had only one psychological parent and recommended that this parent have sole custody. It was posited that the child's separation from the psychological parent would disrupt the child's routine, diminish trust, and increase anxiety. Goldstein, Freud, and Solnit did not derive their concept of psychological parent from research, rather they applied theoretical concepts from their clinical experience.

In contrast to this clinical base, the developmental research by Warshak (1986), Lamb (1997), and Parke (1981) indicates that infants develop a close attachment to both parents simultaneously by age 6 months. Furthermore, the child thrives when they are able to establish and maintain these attachments.

While the concept of psychological parent as presented by Goldstein, Freud, and Solnit (1973) is attractive on the surface, there is no empirical evidence upon which an attorney may rely. For example, it does not inform us how the definition of psychological parent reflects the realities of that parent-child relationship. It also does not provide a basis for decision-making for parenting plans when the child experiences both parents as psychological parents. Therefore, we rely on research based behaviors that suggest the quality of the parent/child relationship.

As for the distinction between primary and secondary parental roles, this does not so much refer to quality of care provided by each parent, as in primary is better than secondary, rather it refers to the differences between what is typically being provided to the child by each of the two parents. Each parent provides unique and essential components for child development and the child comes to rely on each parent for what they provide.

Another area of interest in research is overnights for young children. The current thinking suggests that both parents be considered for overnight time *if* both parents have been a frequent and consistent presence for the child, as well as, informed and attentive as caregivers. The frequency and duration of parental contact, as well as overnight stays, serve to enhance the attachment between parent and child. The presence of the parent provides sufficient emotional security to allow the infant or toddler to separate from the other parent. During a divorce, the child is doing exactly this: taking their leave from one attachment figure to be in the care of the other parent.

Research shows that children do best when they maintain good, close relationships with both parents following divorce. Barring restrictions, if both parents are capable of providing care there is not, at this time, basis in research to automatically restrict the infant or toddler's overnight time with the parent.

In the past, clinical experience and conceptualization of attachment and parent-child separation, presented by Goldstein, Freud and Solnit (1973), has supported the view that infants and toddlers should not spend overnights away from their primary parent figure. The research from attachment studies, child development, and divorce literature, as opposed to clinical experience and conceptualization, offers contrasting opinions about how infants and toddlers fare with overnight residential time.

Kelly and Lamb's (2000) research supports the view that infants become attached to both parents at six to seven months. They also point out that infants and toddlers develop their attachments to caregivers depending on the infant/toddler need and the particular capacities of each caregiver. They add that it is not so much the amount of residential time spent together, as it is the kind of interaction that comes with longer stays and overnights.

The contrasting opinion comes from research by Solomon and George (1999). They argue against Kelly and Lamb's conclusion that the kinds of activities experienced by the infant and toddler during overnights serve to enhance attachment. They found that infants appeared disorganized in their attachment to one or both parents.

There are important limitations to the Solomon research. For example, many of the infants had never lived with their fathers previously. Furthermore, some of the infants had had repeated and prolonged separations from their fathers.

DEVELOPMENTALLY BASED RESIDENTIAL SCHEDULES

Residential schedules are most supportive of children and families if they are developmentally based and if they take into consideration the unique characteristics of each child and their parents. In all families there are dynamics which present the unique signature of the family.

Parents who create a stable, healthy family may have children who are resilient and adaptable to change. Parents who create a family with marked instability which is caused by violent, unpredictable or inconsistent behavior have an adverse effect on their children.

Therefore, the residential schedules for relatively healthy families may follow the guidelines presented below. In unhealthy or high conflict families the developmentally based guidelines may need to be adjusted according to the child and family situation.

There are many characteristics of parents and children described in this section which may affect the frequency and duration of parent-child contact. Although presented within one developmental age group, these characteristics are relevant to all age groups.

The ages presented in these developmentally based residential schedules are estimates. Children's normal development may vary by 6 to 9 months.

Residential schedules may be subject to statutory limitations and restrictions.

INFANT THROUGH 2 YEARS:

The infant and toddler should have consistent, frequent and predictable access to both parents to build and maintain secure attachments. This is likely to mean that access for the infant and parent with whom they are spending less time should include three or four times a week for a

few hours at a time. This could be accommodated at child care, the parent's home or a relative's home.

Previously recommendations for overnights for young children infant through 2 years were based on the premise that the 'primary' residential parent afforded the child stability, consistency and structure needed for their early development. The 'secondary' residential parent was offered frequent brief visitations, longer periods of time on weekends, and no overnights.

Historically, family organization and parental roles have changed. The current generational influences evidence an increase in both parents working, an increase in use of child care for infants and toddlers, and an increase in the father's involvement in the physical, social, and emotional care of infants/toddlers. The challenge presented is how to create a balance between the infant/toddler's need for a safe, secure environment and each parent's ability to provide frequent physical and social interactions.

The decision about overnights for infant/toddlers may be considered if each parent has been a frequent, consistent presence for the child, as well as, an informed and attentive caregiver. Other important factors that might influence a decision about overnights include: physical health, child's temperament, geographical proximity, parental cooperation, and effective communication.

If the adults have little or no history of a parenting relationship, then the adult's maturity, temperament, social support system and ability to learn parenting skills may be considered. Parents with a limited history of relationship with each other may present complicating factors:

- Immaturity
- Intense volatile relationship
- Antagonistic family relationships
- Lack of contact between parent and infant

For these parents who have had a limited relationship with each other, it may be difficult to formulate a residential plan. The parent's sense of responsibility toward the child and their potential for committing to a gradually changing child centered plan should be assessed. The infant/toddler will not be able to maintain their attachment to a parent who is an infrequent presence, such as those parents who are geographically distant or physically absent.

RECOMMENDATIONS FOR INFANT THROUGH 2 YEARS:

- Consistent, frequent, predictable access to each parent.
- Access 3-4 times weekly for a few hours at a time.
- Single, non-consecutive overnights once or twice a week.

PRESCHOOL: 3 YEARS THROUGH 5 YEARS:

The toddler's security within the parental relationship creates a safe haven which contributes to their ability to self soothe, develop empathy, and self-worth. Normal separation anxiety

characteristic of this age includes: temper tantrums, clinging, crying, hiding and refusal to go with the other parent. When there is secure attachment to both parents separation anxiety is lessened. Additional factors for consideration in the decision about frequency and duration of extended residential care include:

- Child's temperament
- Child's adaptability to change
- Strength of child's relationship to parent
- Parents' capabilities
- Parent's ability to cooperate
- Effective parental communication
- Consistency of schedule
- Number of siblings
- Geographic distance

Frequency of parental contact continues to be important at this young age. Each parent needs to be cognizant of the child's schedule for eating, sleeping and play and follow a similar schedule.

Between ages 3 and 4 years, consider up to two consecutive overnights on alternate weekends with a weekly mid-week visit. In some situations, the mid-week visit opposite the weekend may be an overnight.

Parental participation at the child's preschool/school is an additional way to provide the opportunity for child and parent contact. Exchange of the child at preschool minimizes the transitions and decreases the opportunity for negative interaction between the parents. For situations where the child is cared for at home transitions will likely occur at the parental home.

Between ages 4 and 5, consider up to two or three consecutive overnights on alternate weekends, as well as, a weekly evening visit. The opposite alternating week the evening visit may be extended to an overnight. The relationship between child and parent depends on frequency, which in turn is a function of proximity. The relationship will not be maintained solely by vacation or holiday get-togethers.

RECOMMENDATIONS FOR 3 YEARS THROUGH 5 YEARS:

- Age 3 years: up to 2 consecutive overnights on alternate weekends.
- Ages 4 and 5 years: 2 to 3 consecutive overnights on alternate weekends.
- Evening visit may include an overnight on alternating weeks.
- Weekly evening visit.
- Exchanges may take place at child care.
- Parents' participation in pre-school/school may increase contact.
- Parents follow a similar schedule for meals, naps, bedtimes.

ELEMENTARY SCHOOL: 6 YEARS THROUGH 11 YEARS:

These children can extend the time of separation from their parents, yet still need frequent contact with them. The developmental needs of the child for independence and social interaction are met through school, as well as at home. Each parent needs to commit to maintain the agreed-upon extracurricular activities.

These children can accommodate to a variety of residential schedules which reflect extended time and shared parenting. The schedule in this age range may take the form of alternating extended weekends from Thursday or Friday to Monday delivery to school or alternating extended weekends of Thursday through Sunday with one evening or overnight on the week opposite the extended weekend. In some families, a residential schedule of alternating and near equal time in both homes may be appropriate.

This residential schedule reflects a co-parenting situation which is an arrangement in which both parents are actively involved in their child's life, share in child activities, and problem-solve the normal challenges of parenting. Parents need to demonstrate cooperation with each other, effective communication, and both households should have somewhat similar and therefore predictable schedules.

Parents who have a moderate degree of difficulty cooperating and communicating with each other can be successful in parallel parenting. This arrangement is structured to minimize contact between the parents. There is limited flexibility and a structured detailed residential schedule is needed.

At this age, the child's participation in outside activities must be supported, as it is essential to the child's development. Additionally, these activities provide frequent opportunities for parents to be involved with their child outside the residential schedule.

RECOMMENDATIONS FOR 6 YEARS THROUGH 11 YEARS:

- Alternating weekends: Friday to Sunday.
- Alternating extended weekends: Thursday to Sunday or Monday.
- One evening or overnight on the week opposite of the alternating weekend.
- Alternate week or near equal time in both homes.

MIDDLE SCHOOL: 12 YEARS THROUGH 14 YEARS:

The residential schedule may be structured around extended weekends with flexibility to accommodate the young adolescent's increased social needs. For the young adolescent between 12 and 14 years, their friendships and activities must be given priority because of the importance of these activities in the mastery of their developmental tasks. Parenting plans need to be structured so that the agreed-upon activities are maintained in each home. The parents' relationship with the young adolescent develops as they participate with the adolescent by

transporting them to and from activities, participating directly with them through extracurricular activities and volunteering to assist with parties, sports, music and drama.

RECOMMENDATIONS FOR 12 YEARS THROUGH 14 YEARS:

- Extended weekends with flexibility to adapt to young adolescent's needs and activities.
- Extended shared residential plans: 3 to 4 overnights on alternate weekends; week on/week off schedule.
- Mid-week visits may include an overnight.

HIGH SCHOOL: 15 TO 18 YEARS:

From age 15 to 18 years, adolescents are increasingly involved outside the home. In addition to the aforementioned activities, they are more involved in their social lives, working and volunteering. Increased autonomy is associated with the increased responsibilities they assume as they continue to develop their identity. Parents support this developmental stage by considering the preferences of the adolescent and adapting a schedule compatible with their needs. This does not mean that the adolescent goes between homes solely at their discretion. There continues to be a need for parents to support the adolescent's independence while monitoring their whereabouts. The consistency of rules and curfews between homes and the consistency of contact is important at this stage.

RECOMMENDATIONS FOR 15 TO 18 YEARS:

- May want increased involvement with the parent with whom they have spent less residential time.
- May want increased time with same gender parent.
- May prefer one home to avoid confusing their friends.
- May prefer evenings or weekends with the other parent.
- May increase or decrease frequency of weekend residential time.
- May prefer flexibility for mid-week visits.
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HOLIDAYS, SCHOOL BREAKS AND SUMMER VACATIONS:

School vacations include winter, spring and sometimes mid-winter break. Summer vacation is typically 8-10 weeks. Holidays are designated legal holidays and special occasions might include religious observances. The schedule for school breaks and vacations may digress from the child's usual schedule to include longer vacation periods. It is important that this exception to the usual residential schedule is still related to the developmental needs of the child. For example, preschool age children may be able to accommodate 5-7 days for a vacation period. An elementary age child might accommodate longer periods of uninterrupted time. An adolescent may accommodate extended time during the summer.

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